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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 9th meeting
Held at Headquarters, New York, on Wednesday, 20 June 2012, at 10 a.m.

Chair: Mr. Morejón ..... (Ecuador)

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The meeting was called to order at 10.15 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Requests for hearing

2. **The Chair** drew attention to the request for hearing contained in aide-memoire 09/12 relating to the question of Anguilla. He took it that the Committee wished to accede to that request.

3. *It was so decided.*

Questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands (A/AC.109/2012/2-11 and A/AC.109/2012/13; A/AC.109/2012/L.8)

Hearing of petitioners

4. **The Chair** said that, in line with the Committee's usual practice, petitioners would be invited to take places at the petitioners' table and would withdraw after making their statements.

Anguilla

5. **Ms. Gumbs-Connor** (Anguilla Professional Complex), speaking on behalf of the Government of Anguilla, said that the Constitutional and Electoral Reform Committee was preparing to draft a new Constitution which would include provisions for a significant reduction in the powers of the Governor. The administering Power, however, had indicated that it was not amenable to such an arrangement, an attitude that was clearly contrary to the exercise of good governance. The constitution of a Non-Self Governing Territory should always tend to favour the people, but the administering Power was trampling on the people's right to pursue their quest for independence.

6. The United Kingdom was supposedly committed to supporting economic and political development in Anguilla, but had done nothing to prevent the Territory, which had only 15,000 inhabitants, from accumulating debt in excess of 200 million Eastern Caribbean dollars and a budgetary deficit of over 70 million dollars. Nor had it prevented the representative of the administering Power from leasing beach lands to a foreign developer for 125 years, with automatic renewal, or from granting another developer an exemption from accommodation taxes in perpetuity. After overseeing the destruction of Anguilla's finances, the administering Power was refusing to support elected representatives who were working to restore the economy.

7. The administering Power had allowed a substantial expansion of civil service staff, but now required staff cuts of 30 per cent as a condition for budget approval. Fortunately, an independent expert had endorsed the view of the Government of Anguilla: its budget was prudent and the proposed cuts would be devastating. The administering Power, despite its failure with regard to its own economy, was attempting to restrict Anguilla's economic policies and to exercise direct control rather than taking a supervisory role.

8. Support for political development should include efforts to enhance the democratic system and implement good governance. The administering Power should therefore cooperate with the elected representatives with a view to giving greater autonomy to the people of the Territory. Yet the Governor had prevented the Chief Minister from reshuffling his Cabinet and had refused to endorse the nominee selected to act in the Chief Minister's absence. The views of the elected representatives should have greater weight, including in the selection of a new Governor. The announcement that the new constitution would be drafted by the constitutional experts of the Foreign and Commonwealth Office had only created further tensions and highlighted the colonial attitude of the administering Power. Such inconsistencies denied the people of Anguilla their right not to be subjected to foreign rule.

9. Other issues related to the principles of democracy, the rule of law and good governance. The administering Power had given Anguilla an ultimatum to balance its budget within three years, but it had removed from the Finance Ministry, without consultation, key personnel who were responsible for Anguilla's financial recovery. The administering Power had also denied the Territory's request for forensic accounting support to tackle allegations of corruption.

10. Non-Self-Governing Territories were supposed to advance towards greater autonomy, but Anguilla was only regressing under the administering Power's heavy-handed colonial approach. Anguilla was not free to choose independence, as the administering Power

had done little to create the necessary conditions, and it would have to decide whether it wished to continue to risk losing its cultural identity in the face of absorption by the administering Power and its European partners. The people of Anguilla therefore requested the Committee to provide oversight and support to ensure that the administering Power respected the Constitution and general democratic principles.

Guam

11. **Mr. Aguon** (Guahan Coalition for Peace and Justice) said that the situation of colonized peoples could only be corrected through exercise of the right to self-determination. A colonized people was clearly entitled to the opportunity to throw off colonialism by means of a plebiscite that offered voters the full spectrum of possible political status choices. Attempts by some commentators to conflate the international principle of self-determination with interim arrangements for self-governance were dangerously misrepresenting the existing provisions of international law.

12. Discussions of self-determination had traditionally addressed the issue of populations living under alien colonial subjugation, but prior to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, little had been said about the self-determination of indigenous peoples. In Guam's case, where the colonized population also constituted the colony's indigenous people, the exercise of that people's right to self-determination would imply the recovery of both independence and indigeneity.

13. The issue of who had the right to vote in a future self-determination plebiscite in Guam had yet to be resolved. The designation of "native inhabitants" in Guam legislation, which had sparked controversy as a limitation on the electorate, was historical rather than race-based. The people who had been harmed by colonization within a specific time period, ending no later than 1946 — the vast majority of them Chamorro — would be entitled to redress for that historical wrong. Yet some commentators had dared to assert that the United States Constitution required a colour-blind composition of the electorate, whereas it was the United States Government's rule of Guam that would be assessed in the plebiscite. The exercise of self-determination must be governed by international law, not by United States domestic law.

14. According to General Assembly resolution 2625 (XXV), a Non-Self-Governing Territory had, under the Charter, a status separate and distinct from the territory of the State administering it, which meant that the United States of America, as Guam's administering Power, could not exploit its control over Guam's immigration by flooding the island with its own non-colonized expatriates and then claiming that every resident of Guam was entitled to vote in a decolonization plebiscite. A 2002 ruling by the Human Rights Committee had repudiated a similar attempt by France to influence a self-determination referendum to be held in New Caledonia.

15. A retired United States Air Force officer had filed a lawsuit in 2011 in the hope of overturning the Guam legislation that restricted the electorate in any self-determination plebiscite to "native inhabitants" of Guam. The contention that the law amounted to racial discrimination underscored the failure of the administering Power to apply international law to resolve a problem that was clearly international in nature. Recalling the recommendations made by Ms. Natividad on behalf of the Government of Guam at the Special Committee's recent regional seminar in Ecuador, he urged the Special Committee to collaborate with the Sixth Committee to develop and publish a position paper on the composition of the electorate for any self-determination plebiscite to be held in Guam and to transmit a copy of the paper to each remaining Non-Self-Governing Territory.

Turks and Caicos Islands

16. **Mr. Gibbs** (Turks and Caicos Forum) expressed concern at the continuing violation of the human rights of the native-born citizens of the Turks and Caicos Islands by the Territory's administering Power, the United Kingdom. If the Third International Decade for the Eradication of Colonialism was to witness greater progress towards decolonization for Turks and Caicos than the two previous decades, the United Kingdom would have to vastly improve its performance in discharging its responsibilities under the Charter in the areas of good governance and oversight. More effective United Nations monitoring of the situation was also needed, as the administering Power gave preferential treatment to United Kingdom expatriates, including high-ranking officials. Their crimes went unpunished, while alleged offenders of local origin were dealt with according to the letter of the law. One

glaring instance had been the 2009 dissolution of the entire Turks and Caicos Parliament and the installation of an interim dictatorship on account of alleged offences committed by a few Members of Parliament; at least five Members of the British Parliament had been tried and convicted of fraud during the same period, but the convictions had hardly resulted in a suspension of parliamentary democracy in the United Kingdom.

17. The administering Power's claim that its replacement of parliamentary rule with direct rule constituted good governance was disproved by the current state of affairs in the Turks and Caicos Islands. Citizens did not have a means of redress for grievances against the dictatorial interim administration, whose Advisory Council and Consultative Forum did not take account of the people's views. The public also lacked access to information on the deliberations of those bodies. Moreover, fiscal management and processes for the allocation of government resources, including crown land, remained as questionable as they had been prior to the dissolution of the Parliament.

18. Turks and Caicos citizens residing abroad continued to be denied their right to vote owing to the onerous residency requirement of twelve out of twenty-four months, which the United Kingdom did not apply to its own citizens residing abroad. The administering Power was also about to authorize a new Constitution that would allow members of the British Armed Forces to vote in the Turks and Caicos, despite the fact that no native-born Turks and Caicos Islanders were members of the Armed Forces. The general elections to be held in November 2012 general elections were already grossly flawed, as the requirements of the voter registration process made it difficult for citizens to participate; those requirements violated the right of the people to universal and equal suffrage, which was set forth in the Universal Declaration of Human Rights.

19. The Committee should demand that the administering Power should provide a better explanation of its assault on the human rights of the people of Turks and Caicos and of its attempts to delay their progress towards self-determination. The administering Power must also be persuaded to provide compensation for the economic losses sustained under the interim administration. Lastly, the United Nations should establish a monitoring team to investigate human rights violations in the Turks and Caicos Islands, provide oversight of the activities of the interim administration and hold the administering Power accountable.

Draft resolution A/AC.109/2012/L.8: Questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands

20. *Draft resolution A/AC.109/2012/L.8 was adopted.*

The meeting rose at 11.30 a.m.